

Introduced by Senator Harman

January 22, 2007

An act to amend Section 1021.5 of the Code of Civil Procedure, relating to attorneys' fees.

LEGISLATIVE COUNSEL'S DIGEST

SB 117, as introduced, Harman. Civil litigation: attorneys' fees: public interest.

Existing law allows a court, upon motion, to award attorneys' fees to a successful party against one or more opposing parties in any action that has resulted in the enforcement of an important right affecting the public interest, if certain conditions are met.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1021.5 of the Code of Civil Procedure
2 is amended to read:
3 1021.5. Upon motion, a court may award attorneys' fees to a
4 successful party against one or more opposing parties in any action
5 ~~which~~ *that* has resulted in the enforcement of an important right
6 affecting the public interest if: (a) a significant benefit, whether
7 pecuniary or nonpecuniary, has been conferred on the general
8 public or a large class of persons, (b) the necessity and financial
9 burden of private enforcement, or of enforcement by one public
10 entity against another public entity, are such as to make the award

1 appropriate, and (c) ~~such~~ *the* fees should not in the interest of
2 justice be paid out of the recovery, if any. With respect to actions
3 involving public entities, this section applies to allowances against,
4 but not in favor of, public entities, and no claim shall be required
5 to be filed therefor, unless one or more successful parties and one
6 or more opposing parties are public entities, in which case no claim
7 shall be required to be filed therefor under Part 3 (commencing
8 with Section 900) of Division 3.6 of Title 1 of the Government
9 Code.
10 Attorneys' fees awarded to a public entity pursuant to this section
11 shall not be increased or decreased by a multiplier based upon
12 extrinsic circumstances, as discussed in *Serrano v. Priest*, 20 ~~Cal.~~
13 ~~3d~~ *Cal.3d* 25, 49.